

**REMARKS****1. The Amendments and the Support Therefor**

Three claims (35, 44, and 45) have been canceled, three new claims (50-52) have been added, and claims 24 and 46 have been amended to leave claims 24-52 in the application. A check for any newly-submitted claims in excess of the amount previously paid for should accompany this Response, as per 37 CFR §1.16(b)-(d), with the fee due being calculated as follows:

**FEE CALCULATION**

For	Already Paid	No. Extra	Rate (SMALL ENTITY)	Fee (SMALL ENTITY)
Total Claims	26 - 26 =	0	x \$9 =	\$0
Independent Claims	7 - 6 =	1	x \$42 =	\$42
Total:				\$42

No new matter has been added by the amendments or new claims. For your convenience, following is a summary cross-referencing certain amendments and the new claims to exemplary portions of the specification and/or drawings disclosing the recited structure. A more detailed explanation of these amendments and new claims is provided where it is thought to be helpful:

*Claim 50:* New claim 50 rewrites independent claim 35 (now cancelled) to depend from claim 24.

*Claim 51:* New independent claim 51 adapts claim 47 to one of the species of stents discussed at page 13 line 18-page 14 line 7, and shown in Figs. 8 and 10 (i.e., claim 51 is addressed to a stent having a spiral anchor part as in Fig. 8 and a cycloidal anchor part as in Fig. 10).

*Claim 52:* New independent claim 52 finds support in claim 24 and in Figs. 1 and 8.

Further comments regarding the new claims are set out in Section 8 below.

**2. Rejection of Claims 45 and 46 under 35 USC §112(2)**

These rejections are obviated by the cancellation of claim 45, and the amendment of the preamble of claim 46 to correspond with the preamble of claim 40, from which claim 46 depends.

**3. Rejection of Claims 24-29, 31 and 32 under 35 USC §102(e) and/or §103 in view of U.S. Pub. 2002/0138095 to Mazzocchi et al.**

These rejections are obviated by the amendment of claim 24 to incorporate the limitations of claim 44, and to thereby recite that the stent is formed of a single length of wire. It is stated at the passages bridging pages 3-4 of the Office Action that it would be obvious to form the *Mazzocchi et al.* stent of a single length of wire:

it was well known in this art that implantable members may be formed from a single length of wire so that they are easily manufactured. It would have been obvious to so form the *Mazzocchi et al.* stent so that it too would have this advantage.

However, we submit that there is no true motivation which is objectively ascertainable from the art of record for an artisan to construct *Mazzocchi et al.* of a single length of wire. It is apparent that *Mazzocchi et al.* is not so formed, since the various embodiments of *Mazzocchi et al.* are shown with multiple freestanding wire ends (see, e.g., FIGS. 6C, 7, 9A, etc.); also note the discussion at paragraphs 0034-0035 onward of *Mazzocchi et al.* noting that its stent is made of metal fabric having "a plurality of wire strands" having a particular orientation to allow the strands to cooperate in an expandable/contractable braided fashion. While the Office Action states that *Mazzocchi et al.* would be more "easily manufactured" if made of a single strand, we submit that this is not factually supportable: how would it be more easily manufactured, and what benefit would truly be attained? We submit that an ordinary artisan would in fact see no motivation to make *Mazzocchi et al.* of a single wire: simply looking at it, it appears far easier to make with multiple wires (as *Mazzocchi et al.* does).

Further, and more fundamentally, owing to the configuration of *Mazzocchi et al.*, it is not at all apparent how *Mazzocchi et al.* could even be formed of a single length of wire. This is particularly true in view of the fact that *Mazzocchi et al.* must form a flexible meshlike shape which is capable of expansion/contraction, and it is not seen how the braided mesh of *Mazzocchi et al.* could be flexibly maintained with a single wire length without having portions of the length bind other portions, and prevent them from expanding/contracting (again, note pars. 0034-0035 onward of *Mazzocchi et al.*). Separate woven lengths or braids, on the other hand, would be freely expandable or contractable, and this is the structure used by *Mazzocchi et al.*. Since a

proposed modification cannot be obvious unless it has a reasonable expectation of a successful result (MPEP 2143.02),<sup>1</sup> and since it is not seen how *Mazzocchi et al.* could be successfully formed of a single length of wire without destroying its intended function (see MPEP 2143.01, subsection entitled "The Proposed Modification Cannot Render The Prior Art Unsatisfactory For Its Intended Purpose"), it is submitted that claim 24 and its dependent claims 25-34, 43, and 50 are allowable.

**4. Rejection of Claims 33-35, 44, and 45 under 35 USC §103 in view of U.S. Pub. 2002/0138095 to Mazzocchi et al.**

Claims 33 and 34 are ultimately dependent from claim 24, and are submitted to be allowable for at least the same reasons as claim 24 (as discussed in the foregoing Section 3 of this Response).

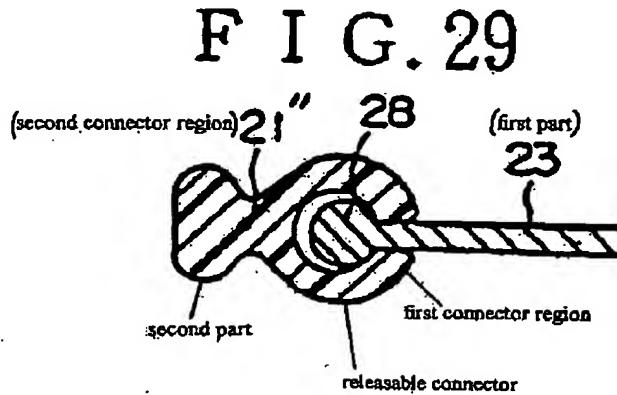
The rejections of claims 35, 44, and 45 are obviated by the cancellation of these claims.

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<sup>1</sup> See also *In re Eli Lilly & Co.*, 14 USPQ2d 1741, 1743 (Fed. Cir. 1990) (obviousness does not exist where prior art "does not contain a sufficient teaching of how to obtain the desired result"); *In re Deuel*, 34 USPQ2d 1210, 1216 (Fed. Cir. 1995) ("[A] general incentive does not make obvious a particular result"); *In re Merck & Co., Inc.*, 231 USPQ 375, 379 (Fed. Cir. 1986) (obviousness is only established where prior art provides a "reasonable expectation that the beneficial result will be achieved"); *Ex parte Goldgaber*, 41 USPQ2d 1172, 1177 (Bd. Pat. App. & Int. 1995) ("a reasonable expectation of success.... is required for obviousness").

5. Rejection of Claims 36-38 under 35 USC §102(b) in view of U.S. Patent 5,192,301 to Kamiya et al.

The rejection, if properly understood, is predicated on the following application of the claimed structure to *Kamiya et al.*:



With respect, the rejection is predicated on an unreasonable interpretation of claim 36. It is accepted that during examination, the USPTO must interpret the claims using their broadest reasonable interpretation (MPEP 2111). Words in a claim are therefore given their plain meaning unless a contrary definition is provided in the specification (MPEP 2111.01). Further, the "plain meaning" to be applied to words in a claim is the meaning applied by those of ordinary skill in the art, *not* the meaning ascribed to the term by laymen or others (MPEP 2111.01). However, claim 36 recites:

A releasable connector for releasably interconnecting first and second parts, said connector comprising *first and second connector regions adapted to be secured to the first and second parts, respectively*, wherein the first connector region has a shape memory effect and is changeable from a first state to a second state above a predetermined trigger temperature, said first state being one in which the first connector region is adapted to hold the first part and the second state being one in which the first connector region is adapted to release the first part so as to enable the first and second parts to be disconnected.

Thus, claim 36 recites that the second connector region is adapted to be secured to the second part. However, in *Kamiya*, the alleged second connector region is not adapted *to be* secured to the alleged second part; it *is* secured/connected, and is never disconnected during usage. Stated more

simply, no reasonable artisan would regard the alleged second connector region as being "adapted to be secured" to the alleged second part when the two are *integrally formed*, since no one (whether in this field of art or any other) describes integrally formed/connected members as being "adapted to be secured" to each other. If the alleged second connector region 21" was somehow not integrally connected to the second part/leftmost plug of *Kamiya*, the claim interpretation might be reasonable; but in the present situation, the alleged parts would no more be considered to be "adapted to be secured" to each other than one would regard the top half of this page to be "adapted to be secured" to the bottom half.

Since claim 36, when properly interpreted in accordance with its broadest *reasonable* construction, cannot be said to read on *Kamiya et al.*, the rejection should be withdrawn. If the rejection is maintained, kindly provide some form of evidence supporting the view that an ordinary artisan would regard two integrally-formed components to be "adapted to be secured" to each other. In this respect, it is noted that the undersigned attorney used the USPTO's online patent database to search for prior U.S. patents containing the string "adapted to be secured," and approximately 7500 patents containing this string were located. Review of the first dozen or so patents found that in all cases, such a string is used to refer to non-integral parts, which evidences that it is unreasonable to regard the *integrally connected* alleged second connector region and alleged second part of *Kamiya* as being "adapted to be secured" to each other.

Claims 37 and 38, which depend from claim 36, are submitted to be allowable for at least the same reasons as claim 36. Regarding claim 38, note that in view of the interpretation of "bush" set forth in the Office Action, *Kamiya* plainly does not include a second connector region including a "second bush part which is adapted to receive and hold the second part when the first connector region is in both of its first and second states." Thus, claim 38 is independently allowable.

**6. Rejection of Claims 40-43 and 46 under 35 USC §103 in view of U.S. Pub. 2002/0138095 to Mazzocchi et al. and U.S. Patent 5,192,301 to Kamiya et al.**

Claims 40 (and its dependent claims 41-42) and 43 are submitted to be allowable for at least the same reasons as claim 24 (as discussed in Section 3 of this Response) and claim 36 (as discussed in Section 5 of this Response).

Regarding claim 42, please note the foregoing comments in Section 5 of this Response regarding claim 38.

Regarding claim 46, please note the foregoing comments in Section 3 of this Response regarding claim 24.

**7. Objection to Claim 30; Allowance of Claims 39 and 47-49**

The indication that objected claim 30 is allowable if rewritten in independent form is noted and appreciated. It is requested that this objection be placed in abeyance pending reexamination of the application in view of the foregoing comments, since claim 30's parent claim 24 is believed allowable.

The indication that claims 47-49 are allowable is noted and appreciated.

**8. New Claims 50-**

New claim 50, which replaces independent claim 35 and which ultimately depends from claim 24, is submitted to be allowable for at least the same reasons as claim 24.

New independent claim 51 is similar to claim 47, and is believed to be allowable for reasons similar to claim 47.

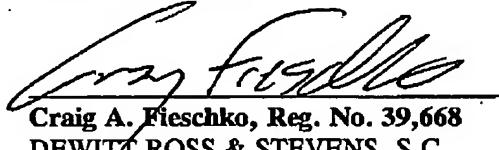
New independent claim 52, which is based on claim 24, specifically recites that the anchor part (which is formed of substantially coplanar turns of wire) is situated at a terminal end of the stent. In contrast, *Mazzocchi et al.* terminates in a "nub" formed of substantially parallel wires (see FIG. 5A, 6A, 6C, 7, etc.), and/or is not formed of the recited helical turns of wire. Further, even if one assumes that some motivation existed to modify *Mazzocchi et al.* to make the claimed arrangement – and it is submitted that there is no such motivation, since no benefit is apparent

from the modification - it is not apparent how *Mazzocchi* could even feasibly be modified to meet the claimed arrangement.

**9. In Closing**

If any questions regarding the application arise, please contact the undersigned attorney. Telephone calls related to this application are welcomed and encouraged. The Commissioner is authorized to charge any fees or credit any overpayments relating to this application to deposit account number 18-2055.

For the Applicant,



Craig A. Fieschko, Reg. No. 39,668  
DEWITT ROSS & STEVENS, S.C.  
Firststar Financial Centre  
8000 Excelsior Drive, Suite 401  
Madison, Wisconsin 53717-1914  
Telephone: (608) 828-0722  
Facsimile: (608) 831-2106  
cf@dewittross.com

**ATTACHMENTS:**

- PTO-2038 (\$252)